



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,054	12/05/2003	Mark S. Grendahl	G353.12-0008	9250

164 7590 04/06/2005

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

EXAMINER

RAMIREZ, RAMON O

ART UNIT PAPER NUMBER

3632

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,054

Applicant(s)

GRENDahl, MARK S.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed Feb 3, 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 15-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Detailed Action

This is the third Office Action corresponding to amendment filed Feb 3, 2005.

The application contains 22 claims. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

After further review, the finality of the last Office Action is withdrawn. A new non-final rejection follows. The examiner was wrong on reading certain limitation on the claims (the spacer zone), which was constructed as a physical element behind the shelf for separating the rack from the building, when it is really a distance between the openings and the brace element. The examiner apologizes for this.

Claim Rejections - 35 USC § 112

Claims 17, and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 does not add any limitation to claim 15, since the recited step is already included in claim 15. This claim should be cancelled. Claim 21 is indefinite since it appears something is missing from the claim; please refer to the first two lines of the claim.

Claim Rejections - 35 USC § 103

Claims 1-4, 7, 8, 9, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson (Pat No 2,815,863). Larson shows all the elements recited here, namely a shelf (2), alignment holes (24), brace (10) having receiving apertures and a spacer zone (distance between the alignment holes and the brace when measured on the shelf surface. The specific distance, or space zone between the holes and the brace is considered to be an obvious matter of engineering choice; that is the holes can be located as closed as desired from the brace.

Claims 5, 6, 15-18 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson in view of Daoud (Pat No 6,278,061) or Hickey (Pat No 5,971,329).

Both Daoud and Hickey show holes having tab means for securing a conduit within the hole. Daoud shows a plurality of tabs, while Hickey shows a single tab.

It would have been obvious to one skilled in the art at the time the invention was made to have provide the device shown by Larson with tabs as shown by Daoud, or a single (as recited in claim 26) tab as shown by Hickey to further secure the conduits. As to the method claims, the device set forth above can be used on a building following the recited steps. As to the step reciting the conduit being secured to the tabs, this is generally meet by the references because once the conduits are inserted into the openings, they become secured to the tabs.

Art Unit: 3632

Claims 10, 19 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson in view of Haegele et al. (Pat No 6,578,282).

The patent to Haegele et al, shows a series of small apertures around a holes. It would have been obvious to one skilled in the art at the time the invention was made to have provided the device shown by Larson with a series of smaller openings around the holes as shown by Haegele et al. to provide additional receiving means. However, this series of openings may have further uses, for example for marking.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (703) 308-0748 (after April 7 2005, the phone number would be (571) 272-6821). The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESLIE BRAUN can be reached on (703) 308-2156 (after April 7, 2005, the phone number would be (571) 272-6815).

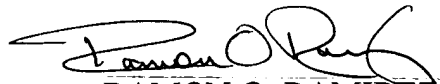
The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A shortened period for response to this Office Action expires **THREE MONTHS** from the mailing date of this action.

ROR
March 23, 2005



RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632